APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,843	01/19/2001	John J. Emerick JR.	7440/4	9252

7590	04/13/2004		EXAMINER	
			JACKSON, JAKIEDA R	

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ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _23 February 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-10 and 12-17_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-10 and 12-17_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _02 May 2001_ is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   In response to the Office Action mailed November 21, 2003, applicant submitted

an Amendment filed on February 23, 2004, in which the applicant traversed and

requested reconsideration with respect to claim 1.

2.   The examiner acknowledges the following amendments:

> ➢ claims 1-10 and 12-17 amended

> ➢ claim 11 canceled

3.   The Examiner takes note that Figure 3 illustrates the separation of the memory

from the physical alarm clock and the objection is withdrawn.

Drawings

4.   New formal drawings will be needed if the application is allowed.

Response to Arguments

5.   Applicant's arguments filed February 23, 2004 have been fully considered but

they are not persuasive. Applicant argues that Van Ryzin fails to disclose and teach

away from a programmable control "for activating an alarm sound <u>coded in the audio</u>

data file in response to the programmable controller determining that the alarm sound is

required to fulfill one or more programming instructions executed by the programmable

controller". Contrary of what the applicant is arguing, the applicant claims, "coded in the

audio data file", not --compressed audio coded in the audio data file--. Van Ryzin, in

fact, discloses a programmable controller (figure, element 16) for coordinating the

transfer of the audio data file (20) from the digital signal processor (14) to the memory

(20), and for activating an alarm sound (activate an alarm trigger; column 1, lines 58-64)

coded in the audio data file ("tunes stored in the memory...", column 3, lines 35). Notes

(tunes) are a code so therefore, the rejection of claim 1 stands.

Since claim 1 stands rejected, the later claims (claims 2-17) stand rejected in

view of prior art, which is discussed in depth in the claim rejections.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   **Claims 1-5, 14 and 17** are rejected under 35 U.S.C. 102(b) as being anticipated

by Van Ryzin (U.S Patent No. 5,991,240).

Regarding **claim 1**, Van Ryzin discloses an alarm clock with automatic time/date

setting, hereinafter referenced as an alarm clock. Van Ryzin's alarm clock is in

communication with an external source (television broadcast station; column 1,

lines 6-9) of at least one audio data file (sound circuit; figure, element 22), the alarm

clock (10) comprising:

a digital signal processor (figure, element 14) for receiving a data signal from the

external source and for decoding the received data signal to obtain the audio data file

(column 1, lines 49-53 and column 2, lines 51-56);

a memory (figure, element 20 or sound circuit; element 55) for storing the audio

data file (column 1, line 66 or column 3, lines 34);

a programmable controller (figure, element 16) for coordinating the transfer of the

audio data file (20) from the digital signal processor (14) to the memory (20), and for

activating an alarm sound (activate an alarm trigger; column 1, lines 58-64) coded in the

audio data file ("tunes stored in the memory...", column 3, lines 35) in response to the

programmable controller (16) determining that the alarm sound is required to fulfill one

or more programming instructions executed by the programmable controller (column 1,

line 67 – column 2, line 4; column 2, lines 23-29; column 3, lines 23-25); and

a speaker (inherent to the device because it generates sound corresponding to

the amplified signal) for playing the alarm sound (column 3, lines 30-33).

Regarding **claim 2**, Van Ryzin discloses a display (figure, element 18) for

displaying information received from the programmable controller regarding the

programming instructions (column 2, lines 28-29 and 54-56).

Regarding **claim 3**, Van Ryzin discloses an alarm clock comprising at least one

manual input control (holiday/weekend key) that is used to provide an input of

information to the programmable controller to supplement the programming instructions

of the programmable controller (column 3, lines 9-14).

Regarding **claim 4**, Van Ryzin discloses an audio playback device (sound circuit;

figure, element 22) wherein the device can be accessed by the programmable controller

as an alternate source of an audio data file for use in the programmable controller

fulfilling the programming instructions (column 3, lines 30-43).

Regarding **claim 5**, Van Ryzin discloses an alarm clock wherein the audio

playback device is at least one of a cassette tape player, a CD-ROM player, a radio

(column 1, lines 10-15), a computer disk drive, a video cassette player, or a video digital

drive.

Regarding **claim 14**, Van Ryzin discloses an alarm clock wherein the digital

signal processor (figure, element 14) decodes the received signal to obtain a set of

transmitted programming instructions that are used to supplement the programming

instructions of the programmable controller (column 1, lines 49-53 and column 2, lines

51-56).

Regarding **claim 17**, Van Ryzin discloses that the time and date on the alarm

clock is synchronized with the time and date on the external data source (column 1,

lines 6-9 and column 2, lines 30-32).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   **Claims 6-10, 12-13 and 15-16** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Van Ryzin in view of Herold (U.S. Patent No. 5,832,067).

Regarding **claim 6**, Van Ryzin discloses an alarm clock but lacks disclosing that

the alarm clock comprises a video display, a memory for storing a video data file and a

programmable controller for displaying the video image. Herold discloses an alarm

clock further comprising:

a video display (figure 5, element 274; column 6, lines 18-19)

a memory for storing a video data file (figure 5, element 272; column 6, lines 1-

5); and

a programmable controller (microprocessor; figure 5, element 254) for displaying

the encoded video image on the display when the programmable controller determines

that the display of the video image is required to fulfill the programming instructions

(column 6, lines 5-14).

Therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify Van Ryzin's invention such that is disclosed a video

display, a memory for storing a video data file and a programmable controller for

displaying the video image in order to be able to read text or other data downloaded

once awakened.

Regarding **claim 7**, Van Ryzin discloses an alarm clock further comprising:

a means of connection to an external source of at least one video data file ("a

tuner for receiving broadcast video signal");

a programmable controller (figure, element 16) for coordinating the transfer of the

video data file from the digital signal processor to the memory (column 3, lines 22-29)

but lacks disclosing a digital signal processor for receiving a data signal from the

external source and for decoding the received data signal to obtain the video data file.

Herold discloses a digital signal processor (sensing circuit; figures 1 and 5; element 52

and 252; column 4, lines 1-3 with column 6, lines 14-17) for receiving a data signal from

the external source and for decoding the received data to obtain the video data file

(column 6, lines 18-27).

Therefore it would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify Van Ryzin's invention such that it disclosed a digital

signal processor for receiving a data signal from the external source and for decoding

the received data signal to obtain the video data file in order to be able to read text or

other data downloaded once awakened.

Regarding **claim 8**, Van Ryzin discloses an alarm clock but lacks disclosing that

the memory can be used to store at least two data files. Herold discloses that the

memory can be used to store two data files that are one of audio and video (column 2,

lines 5-19 "remote server stores a plurality of stored messages").

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Van Ryzin's invention such that it discloses

memory that can be used to store audio and video data files to play sound related to the
text that may be displayed in order to allow the flexibility to preselect messages to be
played at a preselected time.

Regarding **claim 9**, Van Ryzin discloses an alarm clock but lacks that the alarm
clock is connected to an external source of at least one audio data file by a digital signal
processor receiving signals from a connection. Herold discloses an alarm clock wherein
the alarm clock is connected to the external source of at least one audio data file by a
digital signal processor receiving signals from at least one of an internet connection, a
local computer network connection (server; figure 1, element 24; column 3, lines 8-14),
an independent data drive, an independent audio playback device, or an independent
computer. Therefore, it would have been obvious to one of ordinary skill in the art at the
time the invention was made to modify Van Ryzin's invention such that it is connected to
an external source to allow flexibility and customization to the system for the user to
download files and adjust settings in different ways.

Regarding **claim 10**, Van Ryzin discloses an alarm clock but lacks that the
memory is separate from the physical alarm clock. Herold discloses an alarm clock
wherein the memory for storing the audio data file (figure 5, element 272) is located
separate from the physical alarm clock unit (figure 5, element 250) and is accessed by
the alarm clock by a data connection (figure 5).

Therefore, it would have been obvious to one of ordinary skill in the art at the
time the invention was made to modify Van Ryzin's invention such that the memory is
separate from the physical alarm clock to allow more storage for storing audio data file

and other pertinent information needed to download programming instructions, sound

files etc.

Regarding **claim 12**, Van Ryzin discloses an alarm clock but lacks that the alarm

clock is connected to an external source. Herold discloses an alarm clock wherein the

data connection connects the alarm clock to at least one of an external computer, an

external data storage device, an external computer drive unit, a computer server that is

part of a local computer network (server; figure 1, element 24; column 3, lines 8-14), or

a computer server that is part of the world wide web internet. Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to

modify Herold's invention such that it is connected to an external source to allow

flexibility and customization to the system, which allows the user to download files and

adjust settings in different ways.

Regarding **claim 13**, Van Ryzin discloses an alarm clock but lacks that is

connected by a direct or wireless connection. Herold discloses an alarm clock wherein

the speaker for playing the alarm sound is connected to the alarm clock by one of a

direct, wired connection to a speaker (figure 2), a wireless radio connection to a

speaker, a wireless infrared connection to a speaker, or a means of transmitting data to

a speaker that includes transmitting data in a wireless manner.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Van Ryzin's alarm clock such that the speaker

for playing the alarm sound is connected to the alarm clock by one of a direct, wired

connection to a speaker to allow a wire to be dedicated to a particular system and to be

directly transmitted from the audio source to the speaker, in order to avoid signal errors

due to noise.

Regarding **claim 15**, Van Ryzin discloses an alarm clock but lacks that the alarm

clock received signals is from an external source. Van Ryzin discloses an alarm clock

wherein the received signal is received from one of an internet connection, a local

computer network connection (server; figure 1, element 24; column 3, lines 8-14), an

independent data drive, an independent audio playback device, or an independent

computer.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Van Ryzin's invention such that the received

signal is from external source to allow flexibility and customization to the system, which

allows the user to download files and adjust settings in different ways.

Regarding **claim 16**, Van Ryzin discloses an alarm clock but lacks the

programmable controller sending data to the digital signal processor and the digital

signal processor transmitting a signal to an external receiving device. Herold discloses

an alarm clock wherein the programmable controller (figure 1, element 54) sends a data

signal to the digital signal processor (mode select interface; figure 1, element 62), and

the digital signal processor transmits a signal to an external receiving device (server;

column 4, lines 11-27).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify Van Ryzin's invention such that the

programmable controller sends data to the digital signal processor and the digital signal

processor transmits a signal to an external receiving device to allow a user to

preselected messages to be played at a preselected time.

Conclusion

10.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

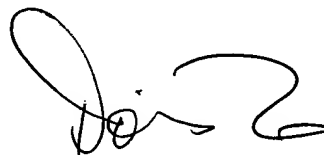than SIX MONTHS from the mailing date of this final action.

11.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jakieda R Jackson whose telephone number is

703.305.5593. The examiner can normally be reached on Monday through Friday from

7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Talivaldis I. Smits can be reached on 703. 306-3011. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ
April 1, 2004

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SUPERVISORY PATENT EXAMINER
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